

FILED

JUL 31 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COEN COMPANY, INC., et al.,

Plaintiffs,

v.

PAN INTERNATIONAL, LTD.,

Defendant.

Case No. 14-cv-03392-JST

**ORDER SETTING DEADLINE FOR
DEFENDANT PAN INTERNATIONAL,
LTD. TO RESPOND TO APPLICATION
FOR TEMPORARY RESTRAINING
ORDER AND APPLICATION TO
CONDUCT EXPEDITED DISCOVERY;
DIRECTING PLAINTIFFS TO SERVE
DEFENDANT THROUGH COUNSEL;
ISSUING ORDER TO SHOW CAUSE
WHY THE COURT DOES NOT LACK
SUBJECT-MATTER JURISDICTION**

Re: ECF No. 14

Plaintiffs Coen Company, Ltd. ("Coen") and John Zink Company, LLC ("Zink") (collectively, "Plaintiffs") have filed an application for a temporary restraining order and for leave to conduct expedited discovery. ECF No. 14. The Court hereby SETS **Wednesday, August 6, 2014, 3:00 P.M. Pacific time** as the deadline for Defendant Pan International, Ltd. ("Defendant") to file any response to the application.

The Court further ORDERS as follows:

1. Plaintiffs are ORDERED to serve the complaint in this action, the application for a temporary restraining order and expedited discovery, all supporting declarations and materials, and a copy of this order, *by e-mail or in person*, on counsel authorized to accept service, and appear, on behalf of Defendant. Plaintiffs shall file a declaration as soon as possible, but in any event not later than Monday, August 4, 2014, describing the efforts they have made to locate and directly communicate with such counsel. To begin with, the Court notes that counsel based in California and counsel based in Texas

1 represented Defendant at least as recently as November 2010, when the same parties
2 before the Court litigated in San Mateo Superior Court. If those counsel do not
3 currently represent Defendant, they may know who does. If the Court concludes that
4 insufficient efforts have been made to contact Defendant's current counsel, the Court
5 may deny the application without prejudice or continue the deadline for opposition.

6 2. This complaint brings only state-law causes of action and arises out of a settlement
7 agreement that disposed of litigation conducted in state court. Plaintiffs are
8 ORDERED TO SHOW CAUSE why this Court has subject-matter jurisdiction over the
9 complaint. The complaint alleges that Plaintiff Zink is an LLC, and for diversity
10 purposes "an LLC is a citizen of every state of which its owners/members are citizens."
11 Johnson v. Columbia Properties Anchorage, LP, 437 F.3d 894, 899 (9th Cir. 2006).
12 Plaintiffs' response to the order to show cause must state the state, or foreign,
13 citizenships of all of Zink's owners and members. The response should also
14 specifically name all applicable citizenships of every party named in the complaint, and
15 then explain, with citation to appropriate authority, why diversity jurisdiction applies.
16 In particular, if any owner or member of Zink is a foreign citizen, and if Plaintiffs
17 maintain that Defendant is only a foreign citizen for diversity purposes, the response
18 must explain why complete diversity jurisdiction is not lacking. See, e.g., Matao
19 Yokeno v. Sawako Sekiguchi, __F.3d __, No. 11-17196, 2014 WL 1424453, at *1 (9th
20 Cir. Apr. 15, 2014) ("in alienage cases," federal courts "refus[e] to hear disputes
21 between aliens for lack of statutory jurisdiction even when a citizen party . . . is
22 present"). Plaintiffs' response should also explain the factual basis of Plaintiffs'
23 assertion that the applicable amount in controversy is satisfied. The response to the
24 order to show cause is also due on Monday, August 4, 2014.

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1 IT IS SO ORDERED.
2 Dated: 7/31/14
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U.S. District Judge
for

JON S. TIGAR
United States District Judge